

**ZONING BOARD OF APPEALS
781-982-2100**

**Minutes
August 14, 2014
Cotter Room
7:00 p.m.**

Members Present: Jim Haney, Lisa Bezanson, John Shepard, Sean Reynolds, Marshall Adams, Building Inspector/Zoning Enforcement Officer

Dory Hall informed Mr. Haney that she would be audio recording the meeting.

7:00 p.m. Approval of minutes – July 10, 2014 - motion to approve made by Mr. Mullen, seconded by Mrs. Bezanson, unanimous.

7:00 p.m. Petition of Matt Nicastro, 57 Jamieson Street, Abington, for: a variance to build 15' x 12' deck on to the back of the house at 57 Jamieson Street, under Abington Zoning By-Laws Sec. 175-26 and 175-29. The property is located on Assessors Plan 63, Plot 75, in the R-30 Zone. Voting members: Lisa Bezanson, William Mullen, John Shepard.

Mr. Nicastro explained he wants to build deck on back of house; the only spot for deck would be within 10' of the garage. It would be the only access from his house to the back of his yard. The garage has two variances – it's too close to the property line and too close to the house. The only spot for the deck would be within the 10'. He doesn't have access to his basement from inside the house; it is through the bulkhead in back. Marshall Adams – it is pre-existing, non-conforming. Deck would be open. Mr. Haney – asked if it should be finding. Mr. Adams - it's increasing the non-conformity. There is a fence on the front. Garage had a building permit, before he bought the house. He is trying to get access to his backyard. He has a front door and side door. Opened to floor for comments, none and brought back to the table.

Motion by Mrs. Bezanson to approve, seconded by Mr. Mullen, unanimous.

7:05 p.m. Petition of Estate of Francis and Wilhelmina Messier, c/o Patricia Louis, 902 Main Street, Hanson, for: a special permit to construct a single family home in the Floodplain and Wetlands Protection District on Lot 1, 899 Washington Street, under Abington Zoning By-Laws Sec. 175-35. The property is located on Assessors Plan 39, Plot 47, 46 & 45, in the R-30 Zone. Voting members: James Haney, William Haney, Sean Reynolds. Mrs. Bezanson made the disclosure that she, her husband and their company have done business with the Russell Wheatley Co., but has no interest in this petition.

John Cotter submitted revised plan. Russ Wheatley turned over meeting to Mr. Cotter. Petition is for special permit to construct in the FPWPD. There is BVW on east and rear section of the property. Proposal is for single family residential dwelling 60' x 36' with driveway running up the north side of property, entering into side of garage. There will be substantial grading, and with existing conditions, lot drops from Washington Street about 7' down to lawn area, flattens

out and continues down to wetlands area. There is sewer easement across property. They will be utilizing the easement for connection to sewer. They will access water on Washington Street.

They are going to bring building up, with the top of the foundation 2' above road grade and grading up to it. They will create a walkout basement. Wetlands are shown, and they conform to the Conservation Commission's 10' buffer. They are putting in siltation fence along wetlands line. They are creating swales on north and south side of property, directing runoff so it won't spill on to neighbor's property and will run back into wetlands.

Everything else conforms to Zoning. Building will be 40' back from the street, 22' to side line. They did an EIS. Impact is minimal on services. They are bringing in substantial fill onto the property. They will have to go before Board of Selectmen for fill. They are going to Conservation on August 26th. Mr. Shepard - that is the character of the neighborhood as far as drop and fill, and asked about brook in back. Mr. Cotter - it is the Shumatuscacant River, which is over 200' away. Basement will be close to grade. Trees in the front will be removed. They will raise the lot up around the building. Mr. Mullen - question on grade. Runoff is going to drain off on property to north, which is also owned by Messier Estate, and they will construct a swale on that property. Mr. Haney - will garage go in at grade? No - it's a little lower, basement level. Garage side of house will be dropped down. Lot runs front to back. Mr. Haney has concerns on north side. Was there any other way to not put water on property to north? Mr. Cotter - the driveway will catch everything and send it to the back of the lot. From the edge of the driveway, it drops down about 3', so it's an area of about 10' wide and about 40-50' long, which would be minimal. Mr. Haney - could any other design be considered so more water wouldn't be put on the property to the north? Mr. Cotter - they could have put garage in front, but they wanted it on side. Mr. Shepard - also concerned with water going on the other lot. Mr. Cotter - they can re-grade that side of the property to create a swale so it is redirected.

Mr. Reynolds - suggested it be continued, take another look at it and go to Conservation. Mr. Haney - concerned about water going on to lot on left. Mr. Cotter - it will still flow to rear, but they will create a swale along property line. Mr. Mullen - they could capture the water until you get to the back of the house area, then direct it back. Opened to floor, with no comments and brought back to the table.

Applicant requested to continue to September 11th meeting. Mr. Reynolds suggested talking to the neighbors before then. Motion to continue to September 11th, 7:05 p.m. made by Mr. Mullen, seconded by Mr. Shepard, unanimous.

7:10 p.m. **Petition of John Wieliczki, Jean Bumpus, Peter Wells & Paul Wieliczki, 5 Dale Street, for: a variance to create two residential house lots requiring relief from the minimum lot width on Lots 1 and 2, 5 Dale Street, under Abington Zoning By-Laws Sec. 175-29. The property is located on Assessors Plan 64, Plot 6, in the R-30 Zone.** Voting members: James Haney, Lisa Bezanson, William Mullen. Mrs. Bezanson made the disclosure that she, her husband and their company have done business with the Russell Wheatley Co., but have no interest in this petition.

Russ Wheatley and John Cotter gave presentation. They are looking to create two lot subdivision on property. Property is located on west side of Dale Street and south side of Vineyard Road. Proposal would be for two residential building lots. Would have conforming frontage, but requesting lot width variances on both of the lots. Property lines along Dale Street are so skewed it greatly reduces the lot width of the existing lot. There is existing house and commercial landscaping business running on the property. There is an area of BVW that restricts use of entire property. The majority of lot is considered a wetland under the WPA. The Shumatuscant River runs back there. Because of the restrictions due to river, wetlands area, and severity of angle to the property line, in order to get extra use out of property, they are requesting variances from the Board. Total area is 117,000 s.f., just under 3 acres.

Mr. Shepard asked about FEMA zone. The development isn't in the floodplain or FEMA zone. It is "A" on FEMA. Mr. Reynolds has trouble going against the voters and bylaws. Mr. Haney – asked if Vineyard Road could be frontage. Mr. Cotter – yes - a portion of it could be developed. Mr. Wheatley - because of the skewed angle of the side lines to the street, width of frontage isn't reflected in the width of the lot. Mr. Cotter - there is hardship in configuration of lot, amount of area and wetlands. Mr. Reynolds - there is use of lot with one single family home.

Opened to floor:

Richard Curtin, 16 Beaver Lane: house at 6 Beaver Lane floods in backyard. There is commercial use on the property now - will there be commercial use again? Mr. Haney – that would not be grandfathered, it is an R-30 zone. If it becomes two house lots - will there be landscaping trucks, activity and employee parking? No – proposal is for two residential house lots. Property will be sold for purpose of two residential lots. Trucks will go when property is sold. Is there grandfathering for business? No - just residential. There was no business conducted there when Mr. Curtin bought his house in 1991. Mr. Curtin had complaint of commercial activity conducted there. Doesn't want more commercial activity and concerned with drainage. Mr. Haney - commercial activity will be gone when sold as residential lots. Mr. Adams – the storing trucks out back with fence, not running a business out of there, may be allowed; he is looking into it. Mr. Shepard – board could condition it for no trucks. Mr. Curtin has made written complaints in the past from the time the landscaping business moved in which should be in the files.

Russ Wheatley - they would accept any condition for approval. New owners wouldn't want commercial use on lot. Shape is the hardship.

David Hall, 29 Dale Street - his lot has the same skewed front lot line. Proposed garage would be 10' from his lot line. Doesn't think it meets frontage requirements. Corner lot should have frontage on both sides according to the bylaws. This would make it two non-conforming lots. R-30 calls for spacious lots – surrounding area meets requirements other than this proposal. Doesn't understand the hardship. He built his house in '98.

Mr. Haney asked if access could go through Vineyard Road and be split. Mrs. Bezanson - could driveway go up far right side to access land out back? Is there enough upland? In the past, the board has approved proposals with less impervious surface. Mr. Cotter - they'd have to look into

it. Mr. Haney - could they have frontage on Oakland Rd? Mr. Reynolds - could they consider different plan?

David Hall - lot is non-conforming now; why is this being considered? There are violations that have been reported. Mr. Haney - if this doesn't go forward, they will probably still have commercial use. Mr. Hall concerned with a tiny house and pushing the garage against the side of his yard... Mr. Haney – it would be in compliance. Mr. Hall – the only reason they're doing it is the lot is too small to have an attached garage because it wouldn't meet setbacks. Mrs. Bezanson – even if it's one lot, they can still build a small house with the garage detached.

Dorie Hall, 29 Dale Street - re commercial use, it's not grandfathered; it's been illegally run for years; no one has done anything about it. They have an unregistered compost site there. They can use it as one lot. Doesn't see hardship. Concerned about her rights as an abutter. The Building Inspector was not aware of past issues.

Mr. Haney – could they get an easement off Dale Street to access on Oakland Road? Mr. Reynolds - suggested tabling and work with neighbors. Mr. Haney - have they done cost analysis on one vs. two lots? Mr. Reynolds – they can't create their own hardship. Mr. Cotter - hardship is shape of lot; they have been before the board before with the same argument, come up with something and been able to move forward in the past. The shape of the lot makes it a hardship to utilize their property to the full extent. This is a classic case of the same thing. He understood that the residents on Dale Street had lots that conformed to setback requirements, He would like to do that with this piece of property, but they don't have that luxury. Mr. Haney - would like to see it developed to get rid of commercial issue. Mr. Cotter - developers have asked about property for residential, not a business use. Mr. Haney – would like them to look at the back part of the property. Mr. Cotter - there is a river back there and that brings in 200' riparian zone. They would have to go back to field and do more work to see what is there, topography, wetlands, etc. Mr. Haney - look to see if there is buildable land back there or whether it is undevelopable. Mr. Cotter – they thought this plan would be more esthetically pleasing than creating an ugly lot and give lot 1 all the frontage on Dale Street by creating a strip 15' wide and going all the way to Dale Street, which would give them whatever the frontage is. That would take away the corner lot. Then they wouldn't need variances on lot 2. The detached garage shown could be taken away.

There were no further comments and brought back to the table. Mr. Reynolds - wants something more in compliance. Mr. Wheatley - requested a continuation. Mrs. Bezanson – historically the board has been inclined to grant a variance that would favor less impervious surface and a shorter driveway to the house. Mr. Mullen – the board has approved odd shaped lots in the past, but there is a lot of opposition to this. He would like to see if there are other options. Mr. Reynolds – suggested working with neighbors. Mr. Haney – neighbors should also keep in mind that development will likely get rid of the commercial piece.

Motion to continue to September 11, 2014 at 7:10 p.m. made by Mrs. Bezanson, seconded by Mr. Mullen, unanimous.

7:15 p.m. **Petition of 999 Adams Street LLC, 999 Adams Street, Abington, for: a variance to construct a second building on the same lot and special permit to construct the second principal building and parking in the Floodplain and Wetlands Protection District at 999 Adams Street, under Abington Zoning By-Laws Sec. 175-14 and 175-35. The property is located on Assessors Plan 71, Plot 2, Industrial Zone.** Voting members: James Haney, William Mullen, John Shepard. Mrs. Bezanson made the disclosure that she, her husband and their company have done business with the Russell Wheatley Co., but has no interest in this petition.

John Cotter – they are looking to construct a 50' x 320' second building on the lot in the FPWPD. Use of building is going to be subservient to existing building. Second building will be principally for manufacturing - precast concrete items. There is existing building and large overhead crane. They want to add building with associated parking around it so that they can build their product, pull it out on the crane and load it on trucks. They asked for the second building on the lot due to the size of the building.

They are putting parking around the building. A drainage system is going to be within the parking area to a large detention basin, go out of the basin into a swale and into a wetlands area on property. It is a long triangular piece of property. There is drain pipe that runs under the railroad. They are going to Conservation with this. There won't be an increase in surface runoff when it leaves the site. Both buildings will be used. Will be 4' from the crane. Mr. Haney - if building was added to existing building, would they have to file with ZBA? Mr. Adams – he would have to look into it as far as the building, but they are constructing in the FPWPD, so they would have to go before the board for that. Proposed building is about same height of existing building. Mr. Shepard - property is well maintained, kept very clean.

Opened to floor, with no comments and brought back to table. Mr. Haney - this is the right area for this type of construction and use.

Motion by Mr. Mullen to approve, seconded by Mr. Shepard, unanimous.

7:20 p.m. **Petition of Tenth District Brewing, 491 Washington Street, Abington, for: variances under Abington Zoning By-Laws Sec. 175-21E(4), 175-21G(3, 5 & 6) to operate small scale production brewery, to be distributed to retail accounts and open to public for bottle fills at 491 Washington Street. The property is located on Assessors Plan 23, Plot 179, in the Central Business District.** Voting members: Lisa Bezanson, William Mullen, Sean Reynolds. Mrs. Bezanson made the disclosure that she, her husband and their company have done business with the property owner in the past, but has nothing to do with this petition.

Dana George and Patrick Eddy gave presentation. They are proposing a nano brewery on the site of a former tattoo parlor. This is similar to micro brewery, but smaller scale. The beer would be brewed at this location, will be retail to public a few days a week, probably 5 p.m.- 9p.m., for off premises consumption. It is not a bar or hangout. It would be similar to a high priced wine store. Would be more expensive than mass-produced beer. They have discussed it a few times with Building Inspector, and found no section of the bylaws that applied directly to this type of business, so they applied for relief from a few sections. The location of the lot is

CBD. They reviewed sections of bylaw that were referenced. They will be pouring beer into bottles to be purchased. They wouldn't be wholesale, but storing on premises. Operation won't overload any services. This has been approved by sewer. Will be opened limited hours. They have discussed the business with Police and Fire. They have spoken with neighbors who have been very supportive. Nano brewery won't require license from Board of Selectmen; they aren't pouring beer for consumption on site. In the future, they may apply for a pouring permit from the ABCC which would allow customers 2 oz. samples to see what type of beer they would like. There is a lengthy process involved with the ABCC and licensing.

Mr. Reynolds – question on venting and storage of product. They will have two rooms at back of building to store kegs. There will be cold room and fermentation room. They are not looking to put anything in the attic. Will be a very clean and appealing operation. Mr. Shepard - could there be parking issues? They talked to Shawn Reilly; it does meet the requirement, but the on street parking is significant. Doesn't foresee an issue. Mr. Mullen – will there be any odor that may disturb neighbors? They will vent steam from the operation, but will be making it once or twice a week, 1-2 hours over the course of the week. Would smell similar to candy (sugar). They would be making 93 gallons once or twice a week.

Opened to floor:

Chris Michaels - owner and manager of strip mall across the street - wishes them luck, but wants to go on record that if they park in his lot they'll be towed. He has had problems with parking from the Chinese restaurant and had to put up towing signs.

No other comments and brought back to the table. Motion by Mr. Mullen to approve, seconded by Mrs. Bezanson, unanimous.

7:25 p.m. Petition of Health Express LLC, 330 Washington Street, Weymouth, for: a variance to allow medical offices for treatment of persons as outpatients in existing commercial building at 170 Bedford Street, under Abington Zoning By-Laws Sec. 175-21D(3). The property is located on Assessors Plan 23, Plot 20, in the Transitional Commercial District. Voting members: James Haney, Lisa Bezanson, John Shepard. Mrs. Bezanson made the disclosure that she, her husband and their company has done business with the property owner in the past but have nothing to do with the petition.

The applicants, Katie Comis and Dr. Whelan, explained they will provide medical care for non-emergency matters. They will offer professional services at lower cost. They have five other offices. There is plenty of parking. They need variance to allow medical offices. There will be no exterior changes to existing building. Conforms to parking spaces; there are 35 spaces available. The offices will not be a heavy traffic generator. There would be no substantial detriment. They feel this would be a positive investment for their business. They will be hiring board certified ER doctors. This would be for non-emergency health issues. Would be an asset to the area and felt this would be a good location on Route 18. Mr. Haney – asked about hours. There would not be ambulances delivering patients. They would be open from 9 a.m. to 8 p.m., 10 a.m. to 4 p.m. on weekends; not open Christmas or Thanksgiving. Mr. Shepard - concerned with people parking along the sides of the building, and emergency vehicles not having the ability to get around the building. Also concerned with medical waste. The applicants didn't

feel this would be a problem; they try to get people in and out within 15-20 minutes. They have a contract for medical waste disposal. These doctors have been physicians for 10-20 years and are familiar with proper procedures for handling this type of waste. Board felt this use was compatible with the area.

Opened to floor:

Jim Billings, 204 Bedford Street - concerned about traffic, but not opposed to this petition. Entrance to parking area is very awkward.

Motion to approve made by Mrs. Bezanson, seconded by Mr. Shepard, unanimous.

Meeting adjourned at 9:15 p.m.

Respectfully submitted,

Nancy Hurst